IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 5454/2001

KAILASH & ORS. Vs. STATE OF RAJASTHAN & ORS.

DATE: 13.11.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Shankar Lal for the petitioners.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. R.K. Salecha for the respondent No.5.

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This writ petition is directed against the orders dated 16.07.2001 (Annexure-8), 20.07.2001 (Annexure-9) and 25.08.2001 (Annexure-10), by which the subsidy granted to the tune of Rs. 1.25 lacs for purchase of tractor and trolley has been withdrawn.

The main challenge to the impugned order is on the ground that once the respondents granted the subsidy being considering the petitioners in the category of B.P.L., without giving opportunity of being heard, the same cannot be withdrawn and the principle of promissory estoppal will apply.

Further as alleged by the respondents that upon enquiry, it was observed that group which was earlier formed to get the advantage of this scheme, has been changed and in such circumstances, the petitioners

group is not entitled to get the benefit of subsidy, therefore, subsidy which was granted, has been withdrawn vide impugned orders Annexures- 8, 9 and 10.

Learned counsel for the petitioners submits that before withdrawal of subsidy, no opportunity of being heard was provided to the petitioners and the respondents have also not followed the bare minimum principle of natural justice. In view of this, the impugned orders are not only contrary to the principle of natural justice but the respondents are bound to make the payment of subsidy under the principle of promissory estoppal as it was legally granted and the same has been disbursed by the respondent No.5, the Bank of Baroda.

Learned counsel appearing for the State submits that the State is empowered to grant subsidy and if it is observed that the grant of subsidy is contrary to the policy laid down, the same can also be withdrawn without giving opportunity of being heard to the petitioners.

Learned counsel for the respondent Bank submits that on account of stay granted by this Court on 16.01.2002, the amount which has been disbursed by the bank, they are not able to recover the same and the subsidy amount has also not been appropriated so far.

Several disputed question of facts are raised in this writ petition and while exercising power under Article 226 of the Constitution of India, this Court do not want to enter into such disputed question of facts.

So far as opportunity of being heard is concerned, it is not disputed by the respondent State that the same has not been provided to the petitioners before withdrawal of the subsidy.

This writ petition is pending since 2001 and the stay order is operative against the respondent Bank since January, 2002, therefore, looking to the urgency of the matter, this Court deem it proper to direct the respondent State to provide opportunity of being heard to the petitioners and after considering the submissions made on behalf of the petitioners, shall pass appropriate order in accordance with the provisions of law. The aforesaid exercise shall be undertaken by the respondents within a period of three months from the date of passing of this order.

In view of the submissions made on behalf of the respective parties and in view of the submissions made on behalf of the respondent State, the impugned orders dated 16.07.2001 (Annexure-8), 20.07.2001 (Annexure-9) and 25.08.2001 (Annexure-10) are herewith quashed and set-aside.

The writ petition stands disposed of in the terms as directed herein above. For the period mentioned above, recovery proceedings shall remain stayed and immediately after passing the order, the respondents are at liberty to proceed further.

Thus, the stay order granted by this Court on 16.01.2002 stands vacated as indicated herein above. The stay application also stands disposed of.

(K.S. RATHORE),J.

/KKC/